

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-1199

Jack Burton Management Co., a
Missouri Corporation,

Appellee,

v.

American National Insurance Co.,
a Texas corporation,

Appellant.

*
*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the Eastern
District of Missouri.

[UNPUBLISHED]

Submitted: November 16, 2000

Filed: November 22, 2000

Before BOWMAN, FAGG, and BYE, Circuit Judges.

PER CURIAM.

Jack Burton Management Co. (JBM) leased property for 99 years and subleased it to Gilroy, Sims & Associates. American National Insurance Co. acquired the leasehold interest through foreclosure and eventually stopped paying rent. Alleging breach of the sublease, JBM brought this diversity action seeking damages from American National. Applying Missouri law, the district court granted partial summary judgment to JBM on the liability issue, concluding American National stood in the same position as an assignee of the sublease and thus was liable to JBM under privity

of estate. After a bench trial on damages, the district court awarded JBM \$104,221.60 for past due rents and \$410,972.36 for the present value of the lost future rent and tax payments due through the rest of the sublease term. On appeal, American National attacks the district court's conclusions that American National assumed the sublease's obligations absent privity of contract, and that American National had privity of estate after American National surrendered the property. American National also argues that in deciding the amount of damages, the district court should not have used the federal postjudgment interest rate as the discount rate. Having carefully reviewed the parties' briefs, the record, and the applicable law, we conclude the district court committed no error and affirm without an extended opinion. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.